

CHAPTER 9

MUNICIPAL INFRACTIONS

Section 901. Definitions

Infraction. An infraction is any violation of this Code, which violation has been specifically declared to be an infraction. For purposes of this Code, an infraction is a civil offense.

Misdemeanor. A Misdemeanor is:

(a) A criminal offense, not amounting to a felony, arising from a violation of a law of the State, which violation is defined as a misdemeanor, or

(b) Unless otherwise specified, a violation of any law of this Town. All violations of this Code shall be treated as misdemeanors unless specifically declared to be an infraction.

Section 902. Declaration as Infraction; Penalty

The Council shall by official act declare the violation of certain ordinances to be an infraction, and for each such violation, a specific fine shall be set. This fine shall never exceed \$100 for any single, initial violation, or \$200 for each day of a repeat or continuing violation. The fine shall be expressed as a discrete amount for each violation rather than being expressed in terms of a maximum or minimum amount. The authority to declare infractions and set fines shall not be delegated by the Council to any other administrative or legislative body.

Section 903. Issuance of Citation

The Mayor shall appoint a member of the Council to be the enforcement-official whose duty shall be to issue a citation or citations to any person or persons alleged to be committing an infraction. A copy of the citation shall be retained by the Town and shall bear the certification of the enforcing official attesting to the truth of the matter set forth in the citation. The citation shall contain at a minimum the following information:

- (a) Name and address of the person charged;
- (b) The nature of the infraction;
- (c) The location and time that the infraction occurred or was observed;
- (d) The amount of the infraction fine assessed;
- (e) The manner, location, and time in which the fine may be paid to the Town;
- (f) The right of the accused to stand trial for the infraction; and

(g) The effect of failing to pay the assessed find or demand a trial within the prescribed time.

Section 904. Payment of Fine

The fine for an infraction shall be as specified in the law violated. The fine is payable by the recipient of the citation to the Town within 20 calendar days of receipt of the citation.

Section 905. No Formal Hearing by Town

The Town shall not conduct any formal hearing for those persons in receipt of a citation of infraction. Any offender so cited may pay the fine as indicated in the citation or elect to stand trial for the offense. This provision shall not prevent an offender from requesting, either personally or through an attorney, additional information concerning the infraction.

Section 906. Election to Stand Trial

A person receiving the citation for an infraction may elect to stand trial for the offense by notifying the Town in writing of his or her intention of standing trial. The notice shall be given at least 5 days prior to the date of payment as set forth in the citation. Upon receipt of the notice of the intention to stand trial, the Town shall forward to the district court having venue a copy of the notice from the person who received the citation indicating his intention to stand trial. Upon receipt of the citation, the district court shall schedule the case for trial and notify the defendant of the trial date. All fines, penalties, or forfeitures collected by the district court for violations of infractions shall be remitted to the general fund of the Town.

Section 907. Failure to Pay Fine

If a person receiving a citation for an infraction fails to pay the fine for the infraction by the date of payment set forth on the citation and fails to file a notice of his or her intention to stand trial for the offense, a formal notice of the infraction shall be sent to the offender's last known address. If the citation has not been satisfied within 15 days from the date of the notice, he or she shall be liable for an additional fine not to exceed twice the original fine. If after 35 days the citation has not been satisfied, the Town may request adjudication of the case through the district court. The district court shall promptly schedule the case for trial and summon the defendant to appear.

Section 908. Conviction Not a Criminal Offense

Conviction of a municipal infraction, whether by the district court or by payment of the fine to the Town, is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

Section 909. Court Proceedings and Rights of Accused

In any proceeding for a municipal infraction, the accused shall have the same rights as for the trial of criminal cases. He or she shall have the right to cross-examine witnesses against him or her, to testify or introduce evidence in his or her own behalf and to be represented by an attorney of his or her own selection and at his or her own expense.